

STATE OF MINNESOTA  
COUNTY OF HENNEPIN

DISTRICT COURT  
FOURTH JUDICIAL DISTRICT

State of Minnesota,

Case Type: Criminal  
Court File No. 27-CR-21-7460

Plaintiff,

vs.

**PROSECUTION DISCLOSURE UPON  
DEFENSE COUNSEL REQUEST  
PURSUANT TO RULE 9.01, SUBD. 1**

Kimberly Ann Potter,

Defendant.

TO: The above-named defendant and defendant's counsel, Earl Gray, 1<sup>st</sup> Bank Building, 332 Minnesota Street, Ste. W1610, St. Paul, MN 55101; Paul Engh, Ste. 260, 650 South Sixth Avenue, Minneapolis, MN 55402.

Pursuant to Minn. R. Crim. P. 9.01, I hereby make the following disclosures in the above-entitled matter:

1. The names and addresses of prospective witnesses for the State as well as their known relevant written or recorded statements and any written summaries are contained in the complaint or in the materials disclosed. If a "confidential informant" or "confidential reliable informant" is referred to in the attached materials, without full identification, then not later than five days before the probable cause and pre-trial hearing (in Hennepin County) or omnibus hearing (in all other counties) either the informant will be identified or a Prosecutor's Certificate pursuant to Minn. R. Crim. P. 9.01, subd. 3(2) will be served and filed. Law enforcement personnel use departmental addresses. Medical, mental health, business, or governmental records custodians and personnel use official business addresses. The known criminal history of any prospective witness is either in the materials disclosed, or will be served together with the State's Witness List.

2. The names and addresses of all witnesses who testified before the grand jury are in the materials disclosed if the defendant was charged by indictment. Grand jury minutes are in the materials disclosed or may be obtained from the district court administrator. Grand jury transcripts already in the possession of the State are in the materials disclosed or may be obtained by court order pursuant to Minn. R. Crim. P. 18.05.

3. The names and addresses of persons having information relating to the case are contained in the complaint or are in the materials disclosed, with the exception of confidential informants, as to whom the provisions of paragraph one apply.

4. Reports on prospective jurors may be obtained from the district court administrator.

5. The known relevant written or recorded statements, if any, and the substance of any oral statements which relate to the case are contained in the complaint or in the materials disclosed. If a confidential informant is referred to in the attached materials, written statements may have been redacted in order to protect the identity of that confidential informant.

6. At trial the State may offer any of the items of physical evidence described or mentioned in the complaint or in the materials disclosed. The State may also offer diagrams or maps of the crime or arrest scenes; medical records; booking records; driver's license or motor vehicle records; business records; photographs of the victim, defendant, other individuals, arrest or crimes scenes, fruits or instruments of the crime, lineups, or photo displays used by the police; recordings and transcripts of telephone calls to law enforcement agencies; or records of telephone calls to law enforcement agencies.

7. If the discovery in this case indicates that suspected controlled substances or precursors were recovered, they may have been sent to a forensic science laboratory for scientific testing. A small portion of each item tested will be consumed in the testing process, which will

change the weight of the item. Pursuant to Minn. R. Crim. P. 9.01, subd. 1(4), if you wish to have a qualified expert be present during the initial weighing of the controlled substances, please contact the laboratory within ten (10) working days of this notice to make arrangements. If exhibits were sent to the Minnesota Bureau of Criminal Apprehension Forensic Science Laboratory, requests to have a qualified expert present during the initial weighing should be made in writing and directed to Jim Iverson and Allison Hursh, Bureau of Criminal Apprehension, Forensic Science Laboratory, 1430 Maryland Avenue East, St. Paul, Minnesota 55106. All such requests must include the BCA lab number. If exhibits were sent to another laboratory, contact information is included in the discovery or can be obtained from the prosecutor.

8. Any results or reports of physical or mental examinations, scientific tests, experiments or comparisons are contained in the complaint or in the materials disclosed. If preliminary results are indicated, final results will be disclosed prior to trial.

9. If the discovery includes a report of the facts and results of any laboratory analysis or examination prepared and attested by the person performing the laboratory analysis or examination in any laboratory operated by the Bureau of Criminal Apprehension or authorized by the bureau to conduct an analysis or examination, or in any laboratory of the Federal Bureau of Investigation, the federal Postal Inspection Service, the federal Bureau of Alcohol, Tobacco, Firearms and Explosives, or the federal Drug Enforcement Administration, you must demand, by notifying the prosecuting attorney at least 10 days before trial, that the person who performed the laboratory analysis or examination testify in person at the trial on behalf of the state. If you fail to demand that the person testify at trial at least 10 days before trial, the prosecutor will not be required to produce as a witness at trial the person who performed the analysis or examination or

prepared the report, the report shall be admitted pursuant to Minn. Stat. § 634.15, and the defendant's right to confront that person as a witness is waived.

10. The known prior convictions of the defendant are contained in the complaint, the bail evaluation, or in the materials disclosed. The prior convictions of defense witnesses will be disclosed after providing the State with the full names and dates of birth of the witnesses in writing.

11. The State is not aware of any information negating or reducing the guilt of the accused except as has been disclosed.

12. Items of physical evidence or buildings or places which relate to the case may be inspected, reproduced, or photographed by contacting the appropriate custodian.

13. Data underlying any reports generated by the Bureau of Criminal Apprehension Forensic Science Laboratory may be examined by arranging a meeting through the prosecutor.

14. Materials in the State's file that relate to the case may be inspected and reproduced by contacting the Attorney General's Office unless they are protected by court rule, court order, or statute.

15. If a notice has been filed pursuant to Minn. R. Crim. P. 7.02 and that other offense has been charged separately, the disclosures made in connection with the other charge are incorporated by reference herein.

16. The State may, pursuant to Minn. R. Evid. 608(b) or any other rule, cross-examine defendant, if defendant testifies, or any witness, about defendant's or a witness' conduct that is disclosed as part of this, or any subsequent, disclosure.

PURSUANT TO MINN. R. CRIM. P. 9.03, SUBD. 4, DISCOVERY MATERIALS SHALL REMAIN IN THE CUSTODY OF DEFENSE COUNSEL, shall not be placed in defendant's custody, and shall be used by defense counsel only for the purpose of conducting that

attorney's side of the case. Absent an order from the court issued upon written motion, failure to comply with Minn. R. Crim. P. 9.03, subd. 4, may result in sanctions pursuant to Minn. R. Crim. P. 9.03, subd. 8.

DEMAND IS HEREBY MADE pursuant to Minn. R. Crim. P. 9.02 for disclosure by the defense.

Dated: June 24, 2021

Respectfully submitted,

KEITH ELLISON  
Attorney General  
State of Minnesota

/s/ Matthew Frank  
MATTHEW FRANK  
Assistant Attorney General  
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ATTORNEYS FOR PLAINTIFF